

KOHN, SWIFT & GRAF, P.C.

ONE SOUTH BROAD STREET, SUITE 2100

PHILADELPHIA, PENNSYLVANIA 19107-3304

JOSEPH C. KOHN  
ROBERT A. SWIFT  
GEORGE W. CRONER  
ROBERT J. LARocca  
DENIS F. SHEILS†  
DOUGLAS A. ABRAHAMS \*  
WILLIAM E. HOESE  
STEVEN M. STEINGARD \*  
STEPHEN H. SCHWARTZ†  
CRAIG W. HILLWIG  
NEIL L. GLAZER†  
JARED G. SOLOMON  
BARBARA L. MOYER†

(215) 238-1700

TELECOPIER (215) 238-1968

FIRM E-MAIL: info@koh Swift.com

WEB SITE: www.koh Swift.com

E-MAIL: RSWIFT@KOHNSWIFT.COM

HAROLD E. KOHN  
1914-1999

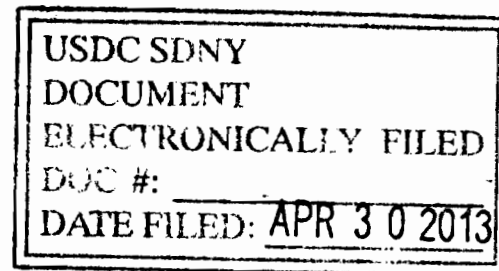
OF COUNSEL  
MERLE A. WOLFSON  
LISA PALFY KOHN

April 24, 2013

\* ALSO ADMITTED IN NEW YORK  
\* ALSO ADMITTED IN NEVADA  
\* ALSO ADMITTED IN NEW JERSEY

DTF → 12 Civ 1596  
→ 11 Civ 9394

Honorable Laura Taylor Swain  
United States District Court  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007



Re: Aldo Vera v. The Republic of Cuba, No. 12 Civ. 1596

Dear Judge Swain:

I am one of the counsel for Plaintiff in *Aldo Vera v. The Republic of Cuba*, No. 12 Civ. 1596 which is pending before Judge Alvin K. Hellerstein. I was copied on the April 23, 2013 letter to you from Edward Rosenthal, counsel in *Villoldo et al. v. Cruz et al.*, 11-9394, and wish to respond to the proposals therein.

The *Vera* case is more advanced than the *Villoldo* case with a judgment against the Republic of Cuba entered August 20, 2012 (*Vera* ECF # 12), and a 28 USC 1610(c) Order permitting execution entered on October 11, 2012. (*Vera* ECF # 19) After collecting information as to Cuban blocked assets in the United States, *Vera* served and filed numerous writs of execution and turnover proceedings consistent with FRCP 69(a) against bank garnishees, including Commerzbank AG. (*Vera* ECF # 107)

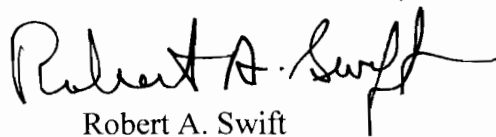
Although the *Villoldo* plaintiffs apparently have not effected delivery on the Republic of Cuba of their judgment entered by your Honor and have no 1610(c) authority to initiate execution proceedings on their federal judgment, they nonetheless commenced execution and served some of the same garnishee banks which had been served by *Vera*, including Commerzbank AG. See *Levin v. Bank of New York*, No. 09 CIV 5900 (RPP), 2011 WL 812032 (S.D.N.Y. Mar. 4, 2011) (writ of execution served on bank without prior court order permitting such service or levy pursuant to 28 U.S.C. 1610(c) is "invalid" and cannot be used as a basis to establish priority interest in blocked assets to which competing creditors assert an interest). This was brought to the attention of Judge Hellerstein who instructed me to invite the *Villoldo* plaintiffs to file papers in the *Vera* case on the issue of priority. I complied. *Villoldo* filed two briefs contending that the *Vera* judgment is invalid. (*Vera* ECF # 156 and 186)

APRIL 24, 2013

After investigating the *Villoldo* judgment in Florida, it appears to me that the *Villoldo* judgment has fatal defects which were not brought to the attention of your Honor. These include: (1) it is a second Florida judgment by the same plaintiffs against the same defendants on the same cause of action albeit for \$1 billion more than the first judgment; and (2) service was not effected on Cuba consistent with the Foreign Sovereign Immunities Act, 28 USC 1608. (See ECF # 169) These issues were briefed and are pending before Judge Hellerstein.

Vera takes no position with regard to Mr. Rosenthal's proposal to have a United States Magistrate Judge resolve turnover proceedings in the *Villoldo* case, such as the Credit Suisse turnover, which are not duplicative of writs of execution and turnover proceedings filed in the *Vera* case. Whether such turnover proceedings are invalid for failure to obtain a 1610(c) Order permitting execution is an issue for your Honor to decide. However, Vera does not consent to the reference to a United States Magistrate Judge of turnover motions which are briefed and pending before Judge Hellerstein where Villoldo simply made a later and duplicative filing before your Honor.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Robert A. Swift", with a stylized flourish at the end.

Robert A. Swift

RAS:yr

Cc via Fed. Exp.: Hon. Alvin K. Hellerstein

Cc via e-mail: Jeffrey Glen, Esq.  
Edward H. Rosenthal, Esq.  
Andrew Hall, Esq.  
Brandon Levitt, Esq.  
Paul Saso, Esq.  
Terry Myers, Esq.  
James Kerr, Esq.

Cc via US Mail: Ministry of Foreign Affairs, Republic of Cuba